RECORD AND BRIEF

No. 16-111

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IN THE

# Supreme Court of the United States

MASTERPIECE CAKESHOP, LTD., *et al.*,
*Petitioners,*

—v.—

COLORADO CIVIL RIGHTS COMMISSION, *et al.*,
*Respondents.*

ON WRIT OF CERTIORARI TO
THE COLORADO COURT OF APPEALS

## BRIEF FOR *AMICI CURIAE* THE CENTRAL CONFERENCE OF AMERICAN RABBIS; THE ROCKY MOUNTAIN CONFERENCE OF THE UNITED CHURCH OF CHRIST; THE RECONSTRUCTIONIST RABBINICAL ASSOCIATION; THE UNION FOR REFORM JUDAISM; UNITARIAN UNIVERSALIST ASSOCIATION; COVENANT NETWORK OF PRESBYTERIANS; FRIENDS FOR LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUEER CONCERNS; METHODIST FEDERATION FOR SOCIAL ACTION; MORE LIGHT PRESBYTERIANS; MUSLIMS FOR PROGRESSIVE VALUES; THE OPEN AND AFFIRMING COALITION OF THE UNITED CHURCH OF CHRIST; RECONCILING MINISTRIES NETWORK; RECONCILINGWORKS: LUTHERANS FOR FULL PARTICIPATION; RELIGIOUS INSTITUTE, INC.; WOMEN OF REFORM JUDAISM; AND NEARLY 1,300 INDIVIDUAL FAITH LEADERS IN SUPPORT OF RESPONDENTS

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## INTERESTS OF *AMICI CURIAE*[1]

*Amici curiae* ("*Amici*") comprise a broad range of religious stakeholders (including approximately 1,300 individual clergy and faith leaders) who represent traditions rooted in centuries of American history and who affirm religious liberty, human dignity, and equal rights.[2] *Amici* come from faiths that have addressed social and religious questions affecting lesbian, gay, bisexual, and transgender ("LGBT") people and their families in different ways over time. But *Amici* unite in believing it is both morally wrong and not constitutionally required to permit blanket discrimination in the public marketplace for goods and services based on the personal religious beliefs of merchants with respect to same-sex couples' rights and relationships. *Amici* believe that, to the contrary, public accommodation laws should be applied on the basis of religiously neutral principles of equal protection under the law.

## INTRODUCTION AND SUMMARY OF ARGUMENT

Over a century and a half ago, Alexis de Tocqueville reflected on religion's central role in the birth of the English colonies in America and its "peculiar power" in the cultural life of the United States. He simultaneously identified a necessary

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[1] All parties have consented to the filing of this *amicus curiae* brief. No counsel for a party authored this brief in whole or in part, and no person or entity besides undersigned *Amici* and their counsel made a monetary contribution intended to fund the preparation or submission of this brief.

[2] Appendix A states the interests of each of the institutional *Amici* and lists all individual *Amici*.

corollary at the heart of religious freedom: "In America religion has, if one may put it so, defined its own limits. There the structure of religious life has remained entirely distinct from the political organization. It has therefore been easy to change ancient laws without shaking the foundations of ancient beliefs."[3]

Tocqueville may have been overly sanguine about the ease of change, but his basic premise remains strikingly relevant in the face of attempts in this case to posit a false dichotomy between "LGBT consumers [and] . . . people of faith." Pet. Br. at 41.[4] The dichotomy is false, among other reasons, because our legal system distinguishes between the ironclad protections provided to religion in its own sphere and the different balances that society strikes in laws regulating interactions in the public marketplace. *Amici* favoring reversal seek to blur this crucial distinction built into our constitutional system, but the values they purport to espouse do not require this

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[3] Alexis de Tocqueville, 2 Democracy in America 432 (1840) (J.P. Mayer ed. (1969), George Lawrence trans. (1966), First Harper Perennial Modern Classics (2006)) (paragraph break omitted).

[4] *See also, e.g.*, Brief of *Amicus Curiae* of the Becket Fund for Religious Liberty in Support of Petitioners ("Becket Br.") at 1 (evincing concern affirmance would affect "conscience rights of . . . religious people"); Brief of Christian Legal Society, *et al.*, as *Amici Curiae* in Support of Petitioners ("CLS Br.") at 1 (arguing that "[n]ow that the Court has protected the liberty of same-sex couples, it is equally important to protect the religious liberty of . . . deeply religious Americans . . . [who] cannot in good conscience assist with same-sex weddings."); Brief of North Carolina Values Coalition and the Family Research Council as *Amici Curiae* in Support of Petitioners at 17 (arguing that "[w]e dare not sacrifice priceless American freedoms through . . . government efforts to broaden LGBT rights.").

divisive result. The undersigned *Amici* also represent "[r]eligious voices [that] have shaped views of sexual morality for centuries,"[5] "do not see their lives as segmented into 'secular' and 'religious' compartments,"[6] and believe, like Petitioners, "that marriage has a 'spiritual significance,' . . . to the point of being 'sacred.'" Pet. Br. at 21 (quoting *Turner v. Safley*, 482 U.S. 78, 96 (1987), and *Obergefell v. Hodges*, 135 S. Ct. 2584, 2594 (2015)). *Amici* further affirm the "premise . . . that religion is a very central element of personal identity," and that, "for believers, 'free exercise is essential in preserving their own dignity,'" as Justice Kennedy observed in *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014).[7] But it is precisely their understanding of human dignity as both a religious value and a feature of this Court's equal rights jurisprudence that leads *Amici* to view this dispute first and foremost as a discrimination case, not a religious liberty case. Personal religious views are entitled to the utmost respect, but do not provide a license to disregard neutral civil rights laws that do not directly and substantially burden actual religious exercise.

The posited dichotomy between LGBT rights and people of faith is false for a further reason: Within the diverse panorama of American religious thought, a large and growing portion of the religious community welcomes, accepts, and celebrates LGBT individuals and families and rejects the idea that they should be subject to discrimination in public

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[5] NCVC Br. at 27.

[6] Brief of *Amici Curiae* C12 Group, *et al.*, in Support of Petitioners at 1.

[7] CLS Br. at 7-8 (citing *Hobby Lobby*, 134 S. Ct. at 2785 (Kennedy, J., concurring)).

accommodations based on differing religious views that reject their dignity and equality. As *Amici* will show, views embracing LGBT equality are widely shared by Mainline and Evangelical Protestants, members of the Religious Society of Friends (Quakers), Jews of the Reconstructionist, Reform, and Conservative movements, as well as many individual Mormons, Muslims, Orthodox Jews, and Roman Catholics. Consistent with these views, many leaders among longstanding pillars of the faith community – including Episcopalians, Lutherans, Methodists, Presbyterians, and Unitarians, as well as the Central Conference of American Rabbis and the United Church of Christ – have objected to claims for broad religious exemption from antidiscrimination law. Any suggestion that "religion" or "people of faith" as a whole reject LGBT equality is false and, frankly, insulting to millions of Americans of faith.

*Amici* accordingly urge the Court to reject Petitioners' plea for a First Amendment-premised exemption from the Colorado Anti-Discrimination Act ("CADA"). Petitioner Jack Phillips has every right to his religious beliefs concerning marriage and to lawfully act on those beliefs in his personal and religious life. But once he held himself out as a baker marketing wedding cakes to the general public, he became subject to public accommodation laws like CADA. If he refused to bake a cake for an interracial couple on the ground that his religion taught him that marriages can properly exist only between persons of the same race, we respectfully submit that few would give this objection much credence. The dignitary injury to an interracial couple turned away from his shop would be obvious and palpable – and hardly remedied by the offer to sell them cookies or birthday cakes. So, too, for Respondents Charlie

Craig and David Mullins, for whom Phillips refused to bake a wedding cake because of equivalent religious objections based on their status as a same-sex couple.[8]

*Amici* reject the argument that enforcement of Colorado's civil rights laws constitutes a threat to religious freedom. To the contrary, evenhanded civil rights enforcement that declines to give special status to any one set of religious views is consistent with the respect for pluralism, fundamental to First Amendment history and jurisprudence, that is the essence of religious liberty. Affirmance here will not impinge upon religious doctrine or practice, and religions and religious people will remain free to determine what and who satisfies the requisites for practice of their faith. *See Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 195 (2012) (recognizing that certain matters are "'strictly ecclesiastical'" and therefore "the church's alone" (citation omitted)). This includes defining marriage within the faith and preserving marriage practices consistent with those tenets. *See Obergefell v. Hodges*, 135 S. Ct. 2584, 2607 (2015) (affirming right of religions to define marriage according to principles of their faith).

Nor will affirmance undercut religious entities' or individuals' core First Amendment freedoms to speak and practice what they believe. Focusing here on

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[8] As Respondent Colorado Civil Rights Commission ("CCRC") has noted, Phillips told Craig and Mullins that "he would sell the couple" other baked goods, including "'birthday cakes, shower cakes, . . . cookies and brownies,'" but further said, "'I just don't make cakes for same sex weddings.'" Brief for Respondent Colorado Civil Rights Commission at 11 (citing JA152).

Phillips's purported Free Exercise claim,[9] the commercial conduct regulated by CADA relates only tangentially, if at all, to actual religious exercise, and this Court "ha[s] consistently held that the right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes)." *Emp't Div., Dep't of Human Res. of Oregon v. Smith*, 494 U.S. 872, 879 (1990) (quotation and citation omitted), *overturned on other grounds by legislative action* (Nov. 16, 1993). The neutral civil rights enforcement in this case does not target or discriminate against Phillips's religious beliefs, like the laws struck down in *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520 (1993) – indeed, it has nothing to do with his religious beliefs and would apply in exactly the same way if he refused to sell wedding cakes to same-sex couples for *non*-religious reasons. Finally, there is no limiting principle for the religious exemption Phillips seeks – as demonstrated by the broader claims of religious *amici* favoring reversal, recognizing his claim would open the door to wholesale evisceration of civil rights enforcement in the name of religious "freedom."

*Amici* submit that the best way to ensure that *all* people retain the First Amendment right to speak, preach, pray, and practice their religious beliefs with respect to gender and sexual orientation is by keeping the State neutral with respect to such beliefs.

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[9] With respect to Phillips' free speech and "hybrid" rights claims, *Amici* adopt the arguments contained in the brief submitted on behalf of Respondents Craig and Mullins ("ACLU Br.") at 13, 15-50, 55-57.

Affirmance in this case will not constitute an attack on religion or signal a judicial imprimatur on changing social mores. Rather, affirmance will recognize that the religious pluralism woven into the fabric of American law, culture, and society embraces creative tension, while confirming that all, regardless of faith, are entitled to equal protection under the law.

## ARGUMENT

America's religious landscape is vast and diverse.[10] Religious adherents differ on contentious issues, including intra-denominationally,[11] and religious

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[10] Recent data confirms that significant majorities of Americans believe in God (89%) and have some formal religious affiliation (76.5%). Pew Research Center, Reports analyzing and highlighting findings in the U.S. Religious Landscape Survey, *U.S. Public Becoming Less Religious* 3 (Nov. 3 2015), http://www.pewforum.org/files/2015/11/201.11.03_RLS_II_full_report.pdf; *see also* Pew Research Center, *America's Changing Religious Landscape* 4 (May 12, 2015), http://www.pewforum.org/files/2015/05/RLS-08-26-full-report.pdf. This includes Americans who are of various Christian denominations, and Buddhists, Hindus, Jews, Muslims, and others. *Id.* In Colorado, 26% of Pew survey respondents identified as being from the Evangelical Protestant tradition, 15% from Mainline Protestant traditions, and 16% from the Catholic tradition, with lesser percentages identifying with a number of other traditions. *Id.* at 145.

[11] Views on marriage rights for same-sex couples are a case in point. "[A]s opinions . . . shifted in the general population, so [did] those of [the] faithful. . . . A decade ago, the most supportive religious groups were white mainline Protestants and Catholics, with 36 percent and 35 percent support, respectively. [By 2015], major religious groups reside[d] on both sides of this issue and within many key groups – such as Catholics – support among rank and file members [came to be] at odds with official church opposition." Robert P. Jones,

bodies have evolved and disagreed over time on various civil rights and social issues.[12] In view of that history and the wide range of modern religious thought on LGBT persons' dignity and place in civic life, it would be wrong to permit particular "religious" or "morally convicted" views on sexual orientation and marriage to give rise to broad exemptions from neutral antidiscrimination laws, like CADA, that apply to everyone. Civil marriage has long been recognized as a secular institution, *Maynard v. Hill*, 125 U.S. 190, 210 (1888), and longstanding jurisprudence likewise makes clear that religious favoritism by government is impermissible, *Larson v. Valente*, 456 U.S. 228, 244 (1982) ("The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another."). Particular religious perspectives on marriage must not, on the ostensible ground of "accommodating" religious exercise, be permitted to recast nonreligious marketplace conduct to deny a protected class access to everyday incidents of civil marriage – like wedding cakes – otherwise available to all. Religious liberty means that all voices may

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*Attitudes on Same-sex Marriage by Religious Affiliation and Denominational Family*, Public Religion Research Institute (Apr. 22, 2015), http://www.prri.org/spotlight/attitudes-on-same-sex-marriage-by-religious-affiliation-and-denominational-family/.

12 For example, the American Baptist Church revised its earlier belief in church and social segregation by race. Pamela A. Smoot, *Race Relations, How Do Baptists Treat Their Brothers and Sisters?*, Baptist History and Heritage Society: History Speaks (2009), http://www.baptisthistory.org/smootracerelations.pdf. A prominent law and religion scholar also has noted that religions' shifting views on usury, the dissolubility of marriage, and slavery reveal "the displacement of a principle or principles that had been taken as dispositive." Michael J. Perry, *Religion in Politics*, 29 U.C. Davis L. Rev. 729, 772 n.94 (1996).

contribute to our national conversation about LGBT equality. But particular religious perspectives may not be accorded special privileges or permitted to undermine the protections afforded by neutral, generally applicable statutes and regulations.

## I. Consistent With Fundamental Constitutional Values, A Wide Cross-Section Of American Religious Traditions Recognizes The Dignity Of LGBT Persons And Their Relationships

Undersigned *Amici* respectfully submit that the starting point for any discussion of the treatment of LGBT persons – as a matter of religious doctrine *or* civil law – must be the fundamental dignity that such persons share with all other members of the human family. *Amici* do not thereby argue that their religious views should be accorded any more weight under civil law than those of *amici* supporting Petitioners. They simply note that this Court's constitutional jurisprudence shares this common touchstone with *Amici's* religious teachings.

### A. The Premise Of Human Dignity Can And Should Inform This Court's Analysis

Justices of this Court began invoking the concept of human dignity in connection with the movement for racial justice in the post-World War II era. In *Duncan v. Kahanamoku*, 327 U.S. 304 (1946), Justice Murphy decried racism as having "no place whatever in our civilization" and as "render[ing] impotent the ideal of the dignity of the human personality." *Id.* at 334 (Murphy, J., concurring). And *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241, 250 (1964), affirmed the premise that denying persons equal access to a public accommodation constitutes nothing less than a "deprivation of personal dignity" (internal

quotation marks and citation omitted). Justice Goldberg further emphasized in concurrence that "*[t]he primary purpose* of the Civil Rights Act of 1964 . . . [wa]s the vindication of human dignity." *Id.* at 291 (Goldberg, J., concurring) (emphasis added). These observations did not occur in an historical vacuum. As Harvard political philosopher Michael Rosen has observed, human dignity's "intrinsic value" has "played a very important role in the founding documents of modern human rights discourse."[13]

Consistent with this historical footing, successive decisions by this Court have been informed at least in part by a jurisprudence of human dignity. *Skinner v. Railway Labor Executives' Association*, 489 U.S. 602 (1989), acknowledged "[t]he interests in human dignity" relevant to a Fourth Amendment claim pertaining to employee privacy rights. *Id.* at 644 (internal quotation marks and citation omitted). *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992), observed that this Court's precedent respects "the most intimate and personal choices a person may make in a lifetime, choices central to [the] personal dignity and autonomy" equally central to liberty. *Id.* at 851. Eighth Amendment decisions also confirm that the Constitution rests upon "broad provisions to secure individual freedom and preserve human dignity," *Roper v. Simmons*, 543 U.S. 551, 578 (2005), and thus have held that providing prisoners inadequate medical care "is incompatible with the concept of human dignity and has no place in civilized society," *Brown v. Plata*, 563 U.S. 493, 511 (2011). *Lawrence v. Texas*, 539 U.S. 558 (2003), acknowledged "that

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[13] Michael Rosen, Dignity: Its History and Meaning 61 (2012).

adults [who] may choose to enter upon [a same-sex intimate] relationship . . . retain their dignity as free persons," *id.* at 567, and in confirming same-sex couples' right to marry, *Obergefell*, 135 S. Ct. at 2584, affirmed that fundamental liberties "extend to certain personal choices central to individual dignity and autonomy," and that "[t]here is dignity in the bond between two men or two women who seek to marry and in their autonomy to make such profound choices." *Id.* at 2597, 2599.

Human dignity serves as a point of connection between the crux of this dispute – namely, prohibited discrimination by a business open to the public – and religious perspectives on LGBT persons and same-sex unions shared by *Amici*. Professor Rosen's aforementioned study notes that "'[d]ignity' appears frequently in faith-based ethical discourse," citing the work of recent Roman Catholic popes and prominent Protestant theologians while confirming, all the same, that human dignity is "not the rhetorical property of any single religion."[14] Indeed, the Rabbinical Assembly, representing the rabbis of Conservative Judaism, endorsed LGBT equal rights in a resolution opening with the words "'Great is human dignity, since it overrides a negative precept of the Torah.'"[15] Rabbi Julie Schonfeld noted in connection with a June 2016 resolution by the same group affirming the rights of transgender and gender non-conforming persons that the "rabbinic tradition

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14 Rosen, *supra* note 13, at 3.

15 Rabbinical Assembly, *Resolution In Support Of Equal Rights And Inclusion For Gay, Lesbian, Bisexual, And Transgender (GLBT) Persons* (Apr. 6, 2011) (citing Sanhedrin 19b), https://www.rabbinicalassembly.org/story/resolution-support-equal-rights-and-inclusion-gay-lesbian-bisexual-and-transgender-glbt.

emphasizes the importance of *kvod habriyot*, human dignity."[16] Similar principles inform Islam, as well.[17] Fundamental dignity thus is not just the starting point for any legal or cultural debate about discrimination against same-sex couples in the public marketplace; it is also the core principle shaping views on LGBT equality of a substantial portion of the American *religious* community.

### B. The Inherent Dignity Of LGBT Individuals Informs The Theology Of Many Among Our Nation's Religious Community

Religious Americans increasingly affirm that the dignity of LGBT persons logically and theologically follows from the premise that all persons have inherent dignity. Some traditions reflect this evolution in approving LGBT persons for ministry,[18]

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16 The Rabbinical Assembly, Press Release, *Conservative Movement Affirms Rights of Transgender and Gender Non-Conforming People* (June 2, 2016), http://www.rabbinicalassembly.org/story/conservative-movement-affirms-rights-transgender-and-gender-non-conforming-people.

17 On the basis of the Quranic teaching that "God enjoins justice, kindness and generosity toward one's fellow humankind" (Quran 16:90), Muslims for Progressive Values advocates for "a future where Islam is understood as a source of dignity, justice, compassion and love for all humanity and the world," and "affirm[s] the equal worth of all human beings, regardless of race, sex, gender, gender identification, ethnicity, nationality, creed, sexual orientation, or ability." Muslims for Progressive Values, *Who We Are*, http://www.mpvusa.org/who-we-are/, *MPV Principles*, http://www.mpvusa.org/mpv-principles (last visited Oct. 17, 2017).

18 *See* Brief of *Amici Curiae* President of the House of Deputies of the Episcopal Church, *et al.*, Supporting Petitioners, *Obergefell v. Hodges*, 135 S. Ct 2584 (2015) ("*Obergefell* Religious *Amici* Brief"), notes 17-18 and accompanying text (describing emergence in various U.S. faith traditions, beginning

selecting prominent leaders,[19] or in extending religious blessing and rites to same-sex unions, as further described below.

Such practices show that *religious* respect for LGBT persons – including by "traditional" religions – is deep, but not new. It was over thirty years ago that the United Church of Christ, with nearly one million members today, adopted a policy of membership nondiscrimination regarding sexual orientation.[20] In 1989, the 45th General Assembly for the Union of Reform Judaism, representing 1.3 million Reform Jews, resolved to "urge [its] member congregations to welcome gay and lesbian Jews to membership, as singles, couples, and families."[21]

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in late 1970s, of policies and norms governing lesbians and gays in ministry).

[19] For example, the Rev. Dr. Karen Oliveto was elected as the United Methodist Church's first openly lesbian bishop in July 2016. Affirmation United Methodists for Lesbian, Gay, Bisexual, Transgender and Queer Concerns, *Affirmation Affirms Election of First Gay Bishop* (July 30, 2016), http://www.umaffirm.org/site/current-events/24-latest-news/140-affirmation-affirms-election-of-first-gay-bishop.html. In March 2015, Rabbi Denise L. Eger became the first openly LGBT president of Reform Judaism's Central Conference of American Rabbis. *Lesbian Rabbi Is to Become President of Reform Group*, New York Times (Mar. 15, 2015), https://www.nytimes.com/2015/03/16/us/lesbian-rabbi-is-to-become-president-of-reform-group.html.

[20] Open and Affirming Coalition United Church of Christ: UCC Actions, *Resolution: Calling on United Church of Christ Congregations to Declare Themselves Open and Affirming* (1985), http://www.ucccoalition.org/about/history/ucc-actions/ (scroll and follow hyperlink for year 1985).

[21] Union for Reform Judaism: Resolutions, *Gay and Lesbian Jews* (1989), http://www.urj.org/what-we-believe/resolutions/gay-and-lesbian-jews. *Cf.* Central Conference of American Rabbis, *Report of the Ad Hoc Committee on Homosexuality and the Rabbinate of the Central Conference of*

Many other faiths similarly embrace a theological belief in the fundamental human dignity of LGBT Americans. The Episcopal Church, the Evangelical Lutheran Church in America, the Presbyterian Church (U.S.A.), Reconstructionist Judaism, the Unitarian Universalist Church, the United Methodist Church, and myriad others adhere to this basic tenet.[22]

Religious individuals, too, have demonstrated an increasingly positive view of LGBT Americans. Four years *before* this Court's *Obergefell* decision, a Public Religion Research Institute study found that a majority of Americans *from most major religious groups* had positive moral and theological views of gay and lesbian people, including 62% of Roman Catholics, 63% of white Mainline Protestants, and 69% of non-Christian, religiously affiliated Americans.[23] Today, post-*Obergefell*, same-sex couples' civil right to marry "garners majority support among most religious groups," registering the support of "[r]oughly two-thirds of white mainline Protestants (66%) and Catholics (68%), and more than eight in ten (84%) religiously unaffiliated Americans and members of non-Christian religious traditions

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*American Rabbis Annual Convention*, 262 (1990), http://borngay.procon.org/sourcefiles/CCAR_Homosexuality.pdf ("all Jews are religiously equal regardless of their sexual orientation").

22 *See Obergefell* Religious *Amici* Brief, notes 8-13 and accompanying text.

23 Robert P. Jones, Daniel Cox & Elizabeth Cook, Public Religion Research Institute, *Generations at Odds: The Millennial Generation and the Future of Gay and Lesbian Rights*, 18-20 (Aug. 29, 2011), http://publicreligion.org/site/wp-content/uploads/2011/09/PRRI-Report-on-Millennials-Religion-Gay-and-Lesbian-Issues-Survey.pdf.

(86%)."[24] Such data undermines Petitioners' broad contention that neutral anti-discrimination legislation like CADA that protects "LGBT consumers" endangers the rights of "people of faith." *See* Pet. Br. at 41. Such data suggests that most people of faith see no conflict between religion and LGBT civil rights.

### C. A Vast Spectrum Of American Faith Groups And Religious Observers Have Long Affirmed Same-Sex Couples' Relationships, Including By Supporting If Not Solemnizing Their Marriages

Petitioners and certain *amici* supporting them suggest that this Court's *Obergefell* decision has undermined traditional religious views of marriage.[25] But in point of fact, many mainstream religious groups and individuals have long affirmed same-sex couples' relationships, their right to civil marriage, and/or their fitness to enter into religious unions.[26]

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[24] Daniel P. Cox, *et al.*, *Majority of Americans Oppose Transgender Bathroom Restrictions*, Public Religion Research Institute (Mar. 10, 2017), https://www.prri.org/research/lgbt-transgender-bathroom-discrimination-religious-liberty/.

[25] *See, e.g.*, Pet. Br. at 36 (arguing that despite *Obergefell*'s assurance that freedoms associated with "'open and searching debate'" about marriage would endure, the CCRC "undermined Phillips's freedom" in that respect "[b]y playing favorites on the issue of same-sex marriage" (quoting *Obergefell*, 135 S. Ct. at 2607)); Brief of *Amicus Curiae* of Concerned Women For America in Support of Petitioners and Urging Reversal at 22 (discussing *Obergefell* and arguing that "[t]he animus against Christians who hold a traditionally Biblical view of marriage continues to grow under the current political and cultural pressures we have discussed").

[26] Recognizing that civil and religious marriage necessarily are two different things, many religions – including those

For example, a number of years ago the Evangelical Lutheran Church in America described the manner in which same-sex unions are, and are expected to be, like different-sex unions in several constitutive dimensions: "[T]he neighbor and community are best served when same-gender relationships are lived out with lifelong and monogamous commitments that are held to the same rigorous standards, sexual ethics, and status as heterosexual marriage. [We] surround such couples and their lifelong commitments with prayer to live in ways that glorify God."[27] And more than twenty-five years ago, Quakers in Colorado – the state featured in this dispute – recognized a "particular need to offer loving support to those people who share same-sex relationships" and determined that because "all people are equal in the sight of God and . . . committed relationships are founded on a spiritual bondedness and unity among ourselves and with God," it was consistent with the Society of Friends' "beliefs and testimonies to practice a single standard as outlined in [their] *Faith and Practice* for joining committed relationships under the care of the

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represented by *Amici* here – supported equal *civil* marriage rights for same-sex couples well before this Court's *Obergefell* decision, regardless of their religious practices. *See Obergefell* Religious *Amici* Brief, notes 26-38 and accompanying text. Also prior to *Obergefell*, majorities of religious individuals from different communities – including from faiths like Roman Catholicism that teach marriage should be reserved to different-sex couples – in many instances favored civil marriage rights for same-sex couples. *See id.*, notes 41-44 and accompanying text.

[27] *See, e.g.*, 11th Churchwide Assembly, Evangelical Lutheran Church in America, *Human Sexuality: Gift and Trust* at 20 (Aug. 19, 2009), http://download.elca.org/ELCA%20Resource%20Repository/SexualitySS.pdf.

Meeting."[28] These are not isolated examples; numerous other mainstream American faith communities came to offer some form of religious recognition of same-sex unions *before Obergefell* – in some cases, decades before.[29]

## II. Diverse Faith Groups And Religious Observers Affirm LGBT Persons' Place In Civic Life

Endorsement of LGBT persons' and married couples' dignity extends beyond religious profession to advocacy for equal treatment in civil society.

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[28] *See* Colorado Springs Monthly Meeting Minute (Dec. 8, 1991), Friends for Lesbian, Gay, Bisexual, Transgender, and Queer Concerns, *Collected Marriage Minutes*, http://flgbtqc.quaker.org/minutes.html (last visited Oct. 12, 2017).

[29] *See Obergefell* Religious *Amici* Brief, notes 21-25 and accompanying text (discussing developments in the Episcopal Church, Presbyterian Church (USA), Unitarian Universalist Association, and the United Church of Christ, and within Conservative, Reform, and Reconstructionist Judaism in the United States). Following *Obergefell*, the Episcopal Church amended its canon law to recognize marriage between two *persons*, and authorized marriage ceremonies that refer to "the couple" or "spouses" as well as "husband" or "wife." Journal of the 78th General Convention of The Episcopal Church, Resolutions 2015-A036 & 2015-A054, at 778-83 (New York: General Convention 2015), http://www.episcopalarchives.org/cgi-bin/acts/acts_resolution.pl?resolution=2015-A036, http://www.episcopalarchives.org/cgi-bin/acts/acts_resolution.pl?resolution=2015-A054. The Presiding Bishop of the Evangelical Lutheran Church of America afforded individual clergy and congregations the freedom to determine whether to solemnize same-sex marriages and to what degree such marriages are recognized. Letter of Elizabeth A. Eaton, Presiding Bishop of the Evangelical Lutheran Church in America (June 30, 2015), http://download.elca.org/ELCA%20Resource%20Repository/Letter_on_Supreme_Court_Decision.pdf?_ga=1.178451175.279518488.1472961181.

Traditions that run the gamut of American religious expression oppose allowing small business owners to deny service to gay or lesbian customers on religious grounds. This includes roughly two-thirds or more among Unitarian Universalists (83%), Jewish Americans (72%), Hispanic Catholics (68%), Buddhists (68%), black Protestants (67%), Orthodox Christians (66%), Muslims (65%), and Hindus (64%), together with 71% of religiously unaffiliated Americans who oppose religiously based service refusals of gay or lesbian people. Majority opposition also exists among Hispanic Protestants (58%), white Catholics (58%), and white mainline Protestants (56%), and opposition is roughly split among Jehovah's Witnesses (50%) and other non-white Protestants (48%).[30] Similar views apply in the wedding vendor context. With the exception of white Protestants, a majority of whom "believe wedding-based businesses should be allowed to refuse serving same-sex couples," the belief "that such businesses should have to serve same-sex couples" is shared by significant majorities of Hispanic Catholics (73%), non-Christian religious groups (64%), black Protestants (56%), and white Catholics (55%), as well as religiously unaffiliated Americans (65%).[31]

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30 Betsy Cooper, *et al.*, *Beyond Same-sex Marriage: Attitudes on LGBT Nondiscrimination Laws and Religious Exemptions from the 2015 American Values Atlas*, Public Religion Research Institute (Feb. 18, 2016), https://www.prri.org/research/poll-same-sex-gay-marriage-lgbt-nondiscrimination-religious-liberty/.

31 Daniel P. Cox, *et al.*, *Most Americans Oppose Restricting Rights for LGBT People*, Public Religion Research Institute (Sept. 14, 2017), https://www.prri.org/research/poll-wedding-vendors-refusing-service-same-sex-couples-transgender-military-ban/.

This broad *religious* support for LGBT nondiscrimination notably exceeds, within some of these subgroups, even the significant aggregate national majority (56%) who "oppose allowing small business owners in their state to refuse services or goods to gay and lesbian people if doing so violates their religious beliefs."[32] To be sure, polling data should never determine the scope of individual liberties. But such evidence does illustrate, contrary to the suggestion of some *amici* that LGBT equality broadly threatens mainstream religion, an emerging consensus among people of divergent faith beliefs that enforcing principles of antidiscrimination in the civic arena is compatible with – or at least does not endanger – their religious sensibilities and practices.

Indeed, some leaders from unquestionably "traditional" religious groups deem the embrace of civil nondiscrimination to be *required* by foundational religious tenets. To cite a few examples, the Bishop of the Episcopal Diocese of Mississippi opposed state legislation seen as privileging certain religious views with respect to LGBT rights, including same-sex couples' marriage rights, declaring that the "baptismal covenant requires that each of us will respect the dignity of every human being."[33] Rabbi Jeremy Simons perceived the same law as being "not about religion . . . [but] about bigotry," citing the command appearing dozens of times in the Bible that "[y]ou shall not oppress the stranger, for you were

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32 *Id.*

33 Statement by the Rt. Rev. Brian R. Seage, Bishop of the Episcopal Diocese of Mississippi, HB 1523 Press Release 033116 – In Light of Senate Passage, The Episcopal Church in Miss. (Mar. 31, 2016), http://www.dioms.org/dfc/newsdetail_2/3178220.

strangers in the land of Egypt."[34] Religious leadership and advocacy groups have also, over the course of several years, explicitly opposed interpreting constitutional doctrines or extending legislative provisions protecting religious freedom to "enable religious liberty claims to prevail in a way that would permit discrimination against protected classes and other minorities, including but not limited to the LGBT community."[35]

The preceding analysis makes abundantly clear that a broad and growing swath of American religious institutions and individuals embrace LGBT persons'

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[34] Sierra Mannie, *Simons Says: HB 1523 'Is About Bigotry,'* Jackson Free Press (July 6, 2016), http://www.jacksonfreepress.com/news/2016/jul/06/simons-says-hb-1523-about-bigotry/ (internal quotation marks omitted).

[35] Central Conference of American Rabbis, *Resolution on State Religious Freedom Restoration Acts* (May 6, 2015) (reaffirming support for federal Religious Freedom Restoration Act of 1993 "under the rationale for which it was adopted, namely the protection of religious liberty," but opposing enactment of state RFRA legislation "that would allow businesses and individuals to claim religious exemptions to discriminate"); *see also* Reconciling Works: Lutherans for Full Participation, *Georgia Clergy Unite To Oppose Religious Refusal Bills* (Jan. 14, 2015), https://www.reconcilingworks.org/georgia-clergy-unite-to-oppose-religious-refusal-bills/ (describing letter by more than 60 religious leaders in Georgia "warning state lawmakers about the dangerous potential for an increase in discrimination against people of all backgrounds"); Anthony Moujaes, *UCC social justice advocates keep watch on 'religious freedom'*, United Church of Christ (Apr. 12, 2016), http://www.ucc.org/news_ucc_social_justice_advocates_keep_watch_on_religious_freedom_04122016 (noting UCC human rights advocates' work in opposing "almost 200 anti-LGBT bills . . . introduced in 34 states since January [2016] . . . that could be used [as] a means for businesses" and others to engage in religion-based discrimination against LGBT people ).

civil equality. This position, shared by *Amici* here, is grounded in an abiding sense that the essential worth and dignity of all people is not just a guidepost of theological reflection, but also an ethical precept, consistent with this Court's own jurisprudence, that should inform evenhanded application of civil law. Certainly there remain contrary views amidst the rich diversity of American religious thought and practice. No one view speaks for "religion" – even if, contrary to the Establishment Clause, it were appropriate to give weight to religious views in applying the Constitution's secular promise of equal protection. But certainly it is no longer possible, if it ever were, to claim that neutral and generally applicable antidiscrimination protections for LGBT persons in the public marketplace, including with respect to civil marriage rights, are in and of themselves offensive to religion.

## III. Affirmance Will Not Undermine Fundamental Rights Of Religious Belief And Practice

Affirming the decision below upholding the enforcement action under CADA will not undermine Petitioners' fundamental First Amendment freedom to believe that marriage is "a sacred union between one man and one woman, [that] represents the relationship of Jesus Christ and His Church," Pet. Br. at 9 (citing JA157-58), and to express that belief in private or public. Affirmance poses no threat to religious liberty, either on the facts of this dispute or in general. To the contrary, reversal would upend longstanding Free Exercise jurisprudence by granting Phillips the unilateral right to excuse himself from generally applicable legal duties having little or nothing to do with his actual religious exercise. Such

a carve-out would have no limiting principle and could lead to widespread undermining of civil rights enforcement.

### A. Affirmance Will Not Interfere With The Exercise Of Core Freedoms To Believe And Teach Religious Principles Concerning Sexuality And Marriage, Or To Set Parameters For Religiously Sanctioned Marriage That May Differ From Those Established Under Civil Law

The statutory scheme that Petitioners challenge poses no risk to core freedoms to hold, express, and practice a religious (or nonreligious) understanding of marriage that is limited to the union of one man and one woman. However government defines civil marriage or determines who has a constitutional right to participate in it, existing constitutional principles protect the autonomy of religious entities (or others) to teach their own principles concerning sexuality and marriage and to preserve practices pertaining to it that comport with their respective tenets. *See Hosanna-Tabor*, 565 U.S. at 195 (affirming principle that certain "matter[s are] 'strictly ecclesiastical,'" meaning they are "the church's alone") (citation omitted).

There accordingly is no basis for the concerns expressed by certain religious *amici* supporting Petitioners that "under the reasoning of the Court below, [a] state could even force an Orthodox rabbi to preside at a wedding of two men, or of a Jew and a non-Jew."[36] This Court made abundantly clear in *Obergefell* "that religions, and those who adhere to

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[36] Brief of *Amicus Curiae* Agudath Israel of America in Support of Petitioners at 3.

religious doctrines," may continue to adhere to an understanding of marriage as limited to different-sex couples, and that "[t]he First Amendment ensures that religious organizations and persons are given proper protection" with respect to practices consistent with that understanding.[37]

It bears repeating that our Constitution's longstanding respect for religious autonomy has permitted various religions to enforce religious sexual norms or define religious marriage in ways that would be unenforceable under civil law – *e.g.*, prohibiting interfaith marriage, as Conservative Judaism does;[38] declining to recognize the union of those civilly divorced and remarried, as Roman Catholicism does;[39] or discouraging interracial marriage, as the Mormon Church did well after this Court ruled in *Loving v. Virginia*, 388 U.S. 1 (1967), that the Constitution requires states to allow interracial civil marriages.[40]

The existence and persistence of such differences show why affirmance here will not burden fundamental religious exercise rights pertaining to

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[37] The Court also made clear that "[t]he same is true of those who oppose same-sex marriage for other reasons." *Obergefell*, 135 S. Ct. at 2607.

[38] Leadership Council of Conservative Judaism, *Conservative View on Intermarriage* (Mar. 7, 1995), http://www.mazorguide.com/living/Denominations/conservative-intermarriage.htm.

[39] United States Conference Of Catholic Bishops, *Compendium – Catechism Of The Catholic Church*, ¶ 349 (2006).

[40] *See Interracial Marriage Discouraged*, The Deseret News, June 17, 1978, at 4 ("Now, the brethren feel that it is not the wisest thing to cross racial lines in dating and marrying." (quoting President Spencer W. Kimball in a 1965 address to students at Brigham Young University)).

marriage. Post-*Obergefell*, religions and persons of faith like Petitioners remain free to define *religious* marriage as limited to the union of one man and one woman and to withhold spiritual blessing from any marriages, or bar those entering into them from being congregants at all, just as they have been free to do so on grounds of faith, race, prior marital status, deviation from sexual norms, or any other characteristic deemed religiously significant. Consistent with this principle, CADA itself provides that a "'[p]lace of public accommodation' shall not include a church, synagogue, mosque, or other place that is principally used for religious purposes." Colo. Rev. Stat. § 24-34-601(1); *see also* 2008 Colo. Legis. Serv. Ch. 341 (S.B. 08–200) (West) (including same provision in version of law in effect during time relevant to this case). Thus, faith groups have complete discretion with respect to what marriages they will solemnize or celebrate within their places of worship.

Nor is there any basis for various arguments suggesting that Petitioners or others could somehow be coerced into actually "participating" in religious services they find offensive. Free Exercise guarantees obviously bar the state from declaring, as certain *amici* favoring reversal suggest is possible, what liturgy or religious documents a clergymember must include in a wedding ceremony.[41] CADA in no way

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[41] Brief of Freedom X and Rabbi Dovid Bressman as *Amici Curiae* in Support of Petitioners at 17. Other *amici* supporting Petitioners argue – citing nothing – that "in the typical religious wedding vendor case, the vendor is required by the State to participate in, facilitate, and help celebrate the wedding ceremony." Becket Br. at 9. But this is merely loose rhetoric. Bakers and other vendors are not literally required to participate in religious ceremonies in obvious violation of their Free Exercise rights, any more than a florist or caterer or linen

forces Petitioners to participate in religious rites – merely to sell the same products to same-sex couples that they sell in the stream of commerce to anyone else who walks into their shop. Such enforcement of an ordinary public accommodation provision comes nowhere close to threatening core Free Exercise rights. As this Court observed in *Smith*, "[t]he free exercise of religion means, first and foremost, the right to believe and profess whatever religious doctrine one desires." 494 U.S. at 877. CADA's enforcement against Petitioners' business conduct is thus distinct from what the "First Amendment obviously excludes," namely, "all 'governmental regulation of religious *beliefs* as such,'" *Id.* (quoting *Sherbert v. Verner*, 374 U.S. 398, 402 (1963). Nor does its enforcement "compel affirmation of religious belief, *see Torcaso v. Watkins*, 367 U.S. 488 (1961), punish the expression of religious doctrines [the government] believes to be false, *United States v. Ballard*, 322 U.S. 78, 86-88 (1944), impose special disabilities on the basis of religious views or religious status, *see McDaniel v. Paty*, 435 U.S. 618 (1978); . . . or lend [government] power to one or the other side in controversies over religious authority or dogma, *see Presbyterian Church v. Hull Church*, 393 U.S. 440, 445, 452 (1969)." *Smith*, 494 U.S. at 877.

### B. Affirmance Will Not Impermissibly Burden Petitioners' Free Exercise Rights

Notwithstanding the lack of any direct impact on actual religious practice or observance, Petitioners argue that they are constitutionally entitled to refuse

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supply company is religiously coerced by having to furnish services or materials on a non-discriminatory basis.

to sell wedding cakes to same-sex couples based, in part, on an exceptionally broad and unprecedented Free Exercise argument. This claim turns on Phillips's view that "marriage has inherently religious significance" and that he "considers himself 'an *active* participant' in that sacred event" "*[r]egardless of whether his clients plan an overtly religious wedding*." Pet. Br. at 38 (emphasis added). But the Free Exercise Clause has never been given such a broad construction, and even certain religious *amici* supporting Petitioners concede that "[r]eligious exemptions that touch on the commercial sphere must be carefully defined."[42] Petitioners' arguments attempt no such careful definition and have no limiting principle that would keep the exemption from gutting civil rights enforcement. On its face, CADA regulates only commercial activity, and does so in a neutral way that applies to everyone and without respect to anyone's religious views. Petitioners' marketing of wedding cakes to the general public is, undeniably, commercial activity rendering the bakery a public accommodation under state law. It would be hard to conceive of a setting more appropriate for invocation of the rule that religious convictions do not trump "the obligation to comply with a valid and neutral law of general applicability." *Smith*, 494 U.S. at 879. The Free Exercise claim fails here for several reasons.

First, Petitioners' conduct in refusing to sell wedding cakes to same-sex couples is not directly related to actual religious ritual or observance.[43]

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[42] CLS Br. at 11.

[43] This Court has recognized that, while "a determination of what is a 'religious' belief or practice entitled to constitutional protection may present a most delicate question, the very

Petitioners describe a Phillips cake "as the iconic centerpiece of [a] marriage celebration, announc[ing] through Phillips's voice that a marriage has occurred and should be celebrated." Pet. Br. at 1-2. *Amici* here – hundreds of whom have presided over countless religious wedding ceremonies – respectfully submit that apart from the fact that wedding cakes are not *religious* icons, it is typically a wedding *officiant* who proclaims "that a marriage has occurred." *Id.* Phillips is not a wedding officiant, ordained or otherwise, nor has he tied his business craft to any recognizable *religious* ritual. While certain *amici* supporting Petitioners claim that Phillips "custom designs each cake to express and reflect God's design for marriage as a union of a man and woman,"[44] Masterpiece Cakeshop does not actually purport to market itself as a crafter of *religious* baked goods or argue that its cakes themselves express or reflect a religious viewpoint about the nature of marriage. *See* ACLU Br. at 7 (noting that CCRC found Phillips's bakery "did not claim to be a business principally operated for religious purposes" (citing JA 71, 72, 80, 81)).

Petitioners' citation-laden discussion of the cultural and historical significance of wedding cakes (Pet. Br. at 6-8) fails to include a single reference to a religious or theological authority, and contains no discussion of religious understandings of marriage *per se*, let alone

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concept of ordered liberty precludes allowing every person to make his own standards on matters of conduct in which society as a whole has important interests." *Wisconsin v. Yoder*, 406 U.S. 205, 215-16 (1972).

[44] Brief of *Amici Curiae* Ethics & Religious Liberty Commission of the Southern Baptist Convention at 27 (citing Pet. Br. at 5-8).

of cakes used to celebrate marriages, religious or otherwise. *See id.* Thus, no matter how "elaborately designed, intricately constructed, and typically tiered" Phillips's cakes may be, *id.* at 7, a Phillips cake is a *cake*, not a *chuppah*, a communion wafer, or a Quran – sacred objects intimately and unmistakably associated with many Jewish, Christian, and Islamic marriage rite celebrations. Nor, obviously, is a Phillips cake a *wedding*, religious or otherwise. It is thus quite a stretch for religious *amici* supporting Petitioners to argue that this case "involves a right to act on conscience in a *religious* context – in connection with a wedding"[45] or is about being forced "to participate in specific rituals."[46] Indeed, neither Phillips nor his cake would have actually "participated" in a wedding at all; the cake Craig and Mullins ultimately obtained from another Colorado baker was served at a reception roughly two thousand miles away from their actual wedding, which occurred in Massachusetts. *See* Pet. Br. at 10 (citing JA175-76).

Finally, while *Phillips* may believe that weddings carry religious meaning, he does not contend that he inquires whether different-sex couples to whom he readily sells wedding cakes conceive of their impending union in religious terms that comport with his own – or in religious terms at all. If the essence of Phillips's objection is being forced to "participate" in any marriage other than one that is "a sacred union" that "represents the relationship of Jesus Christ and His Church," Pet. Br. at 9 (citing JA157-58), what about weddings of agnostics or atheists? Jews or Muslims? All of these, apparently, may buy

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45 CLS Br. at 3 (emphasis added).

46 Becket Br. at 4, 6-12.

a Masterpiece wedding cake even though their unions surely fail to comport with Petitioners' religious vision. It is thus clear that Phillips's refusal to serve Craig and Mullins, while rooted in sincere religious belief, is less about the religious content of their wedding and more a function of *who* they are – a same-sex couple.[47]

Second, even assuming, *arguendo*, that Petitioners' conduct at issue involved some limited degree of cognizable religious expression, that fact alone does not create an automatic exemption from compliance with a neutral, generally applicable public accommodation statute. As citizens, we are required to comply with a wide range of neutral laws that may be inconsistent with our religious convictions relating to taxation, public health, economic regulation, the selective service, and more. *Smith*, 494 U.S. at 878-80 (summarizing cases). In *Smith*, this Court held that even a genuine and sincere religious practice – in that case, "ingest[ion of] peyote for sacramental purposes at a ceremony of the Native American Church," 494 U.S. at 874 – could legally be prohibited by an otherwise lawful statute regulating controlled substances. The Court expressly rejected the gist of Petitioners' argument here – that "when otherwise prohibitable conduct is accompanied by religious convictions, not only the conviction but the conduct

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[47] This is made clear by Phillips's conduct in other instances. For example, he declines to sell Halloween-themed baked goods – or baked goods with vulgar expressions – to *anyone* because the form of expression itself violates his religious beliefs. Pet. Br. at 9 (citing JA165). But he does not decline to sell wedding cakes to people whose definition of marriage violates his religious beliefs *unless* it is for the marriage of a same-sex couple.

itself must be free from government regulation." *Id.* at 872.

As Petitioners concede, *Smith* will "insulate[]" a "generally applicable law . . . from strict-scrutiny review." Pet. Br. at 46; *see also Smith*, 494 U.S. at 885 ("The government's ability to enforce generally applicable prohibitions of socially harmful conduct, like its ability to carry out other aspects of public policy, cannot depend on measuring the effects of a governmental action on a religious objector's spiritual development." (quotation and citation omitted)). CADA's application to Masterpiece Cakeshop, as to all other businesses open to the public, is valid whether or not it was necessary to achieve a compelling interest. *Id.*

Petitioners' attempt to come within the ambit of *Lukumi* rather than *Smith* on the ground that their religious views are being unfairly singled out for suppression is groundless. *Lukumi* struck down a statute based on evidence that it was crafted to effect "suppression of the central element of the Santeria worship service" by defining "'sacrifice' . . . [to] exclude[] almost all killings of animals except for religious sacrifice" but expressly exempted kosher slaughter. 508 U.S. at 534-36. While *amici* acknowledge and indeed embrace the need to protect minority religious views from unfair government suppression, that is not what is going on here. This is not, like *Lukumi*, a case of "religious gerry-mander[ing]," *id.* at 534-35, aimed at legally burdening a particular faith or viewpoint. Rather, CADA prohibits a business owner serving the general public from discriminating against LGBT customers regardless of the owner's religious affiliation or beliefs (or lack thereof), and whether or not religious affiliation or belief is the reason for the

discrimination. The fact that CADA applies to Petitioners' conduct and not to the conduct of someone whose religion does not tell them to violate a public accommodation statute does not mean that Petitioners' beliefs are being "target[ed]." Pet. Br. at 15. Significantly, both *Smith* and *Lukumi* dealt with prohibition of conduct that was itself undeniably *religious* – particular sacred rituals of the Native American Church and Santeria, respectively. Such regulation of actual religious *practice* inherently gives rise to constitutional concerns of a different character than religiously neutral laws, like CADA, that regulate only commercial conduct.

Third, the exemption for which Petitioners argue admits of no coherent limiting principle and thus would seriously undermine public accommodation civil rights enforcement. If something as attenuated from actual religious observance as a cake sold by a bakery open to the public may trigger an exemption from neutral enforcement of a public accommodation law, surely florists, caterers, venue owners, and invitation printers that object to being forced to "participate" in the wedding of a same-sex couple will assert their own right to a constitutional exemption. Such claims could extend beyond weddings to provide a pretext for discrimination by those providing everyday commercial goods and services for bar mitzvahs, confirmations, funerals, or any other event with religious significance. This would indeed permit "each conscience [to be] a law unto itself," *Smith*, 494 U.S. at 890, yielding a slippery slope that affirmance would altogether avoid.[48]

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[48] For example, certain *amici* supporting Petitioners urge that "the Free Exercise Clause extends *to any conduct* that could constitute religiously prohibited substantial participation in a

Nor would such claims logically be limited to discrimination against LGBT individuals. A baker (or caterer or other vendor) who harbored a deep religious conviction that celebrating a marriage between people of different races would be "sacrilegious" (Pet. Br. at 9) could use the precedent of this case to argue for his own exemption. And if private religious convictions were all one needed to be exempted from the general application of civil rights laws, those religiously opposed to the races mixing could upend fifty years of precedent to reinstate segregated lunch counters. *See Newman v. Piggie Park Enters., Inc.*, 390 U.S. 400, 402 n.5 (1968) (deeming "patently frivolous" restaurant's claimed

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ceremony" – suggesting that a Free Exercise exemption could be claimed even by "[t]he owner of a chartered bus service . . . asked to transport guests to a same-sex wedding." Brief of *Amicus Curiae* of the National Jewish Commission on Law and Public Affairs ("COLPA") Filed on Behalf of Orthodox Jewish Organizations in Support of Petitioners at 3 (emphasis added).

Other *amici* attempt to open the floodgate of claims by declaring that "free exercise of religion by secular vocations in the marketplace should be no less protected than sacred vocations in the ministry." Brief of *Amici Curiae* Ethics & Religious Liberty Commission of the Southern Baptist Convention, *et al.* at 7 – essentially an argument to extend the "ministerial exception" recognized in *Hosanna-Tabor*, 565 U.S. at 194-95, to exempt from many forms of government regulation the conduct of lay individuals having no official church role, based merely on the subjective assertion that their commercial activities constitute religiously inspired "vocations." This would radically remake Free Exercise law by expanding an exemption previously limited to professionals with a direct role in conveying a religious institution's message and carrying out its mission. *See id.* at 191-92; *see also id.* at 198-99 (Alito, J., concurring) (observing that in such analyses "courts should focus *on the function performed by persons who work for religious bodies*" (emphasis added)).

free exercise right to refuse service to African American customers in violation of Civil Rights Act of 1964).

The Court should avoid such untoward results by rejecting Petitioners' claimed Free Exercise right to exempt themselves from compliance with Colorado's civil rights law. Business owners like Phillips who sell everyday goods to the general public and are religiously offended by what purchasers might intend to do with the products they sell are not entitled to have the state eliminate their discomfort by abridging the rights of others in the public marketplace. *See United States v. Lee*, 455 U.S. 252, 261 (1982) ("[E]very person cannot be shielded from all the burdens incident to exercising every aspect of the right to practice religious beliefs. When followers of a particular sect enter into commercial activity as a matter of choice, the limits they accept on their own conduct as a matter of conscience and faith are not to be superimposed on the statutory schemes which are binding on others in that activity.")

Requiring equal treatment for same-sex couples like Craig and Mullins will not harm the religious liberty fundamental to this nation's founding identity, but will merely affirm their and other LGBT persons' fundamental dignity. Here, Phillips – a business owner purportedly serving wedding cakes to the general public – turned Craig and Mullins away, concluding they were not entitled to buy his product because their pending wedding was not and could not be a "sacred union" according to Phillips's religious beliefs. That Craig and Mullins secured another cake elsewhere for free may have saved them money but has nothing to do with the dignity interest at stake in this case; the issue is full participation in society, not access to baked goods. *See Newman v. Piggie Park*

*Enters., Inc.*, 256 F. Supp. 941 (D.S.C. 1966) (rejecting arguments by business owner advancing free exercise claim as defense in racial discrimination suit that African American customers could eat elsewhere), *aff'd in relevant part and rev'd in part on other grounds*, 377 F.2d 433 (4th Cir. 1967), *aff'd and modified on other grounds*, 390 U.S. 400 (1968). As Justice Goldberg observed in *Heart of Atlanta Motel*, "[t]he primary purpose of the Civil Rights Act of 1964 . . . [wa]s the vindication of human dignity *and not mere economics*." 379 U.S. at 291 (Goldberg, J., concurring) (emphasis added). Affirmance here would be consistent with longstanding assumptions underlying America's promise of equal civil rights and would comport with undersigned *Amici*'s belief – as a matter of law, religious faith, and fundamental decency – that LGBT persons should be treated with equal dignity and respect in civil society.

## CONCLUSION

For the foregoing reasons, *Amici* respectfully submit that the Court should affirm the judgment of the Colorado Court of Appeals.

Respectfully submitted,

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# APPENDIX

# APPENDIX A: STATEMENTS OF INTEREST OF *AMICI CURIAE*

*Amicus curiae* The Central Conference of American Rabbis, whose membership includes more than 2,000 Reform rabbis, opposes discrimination against all individuals, including gays and lesbians, for the stamp of the Divine is present in each and every human being.

*Amicus curiae* The Rocky Mountain Conference of the United Church of Christ is the conference of UCC congregations in Colorado, as well as Utah and Wyoming, who support and nurture one another in local and wider ministry and mission. The United Church of Christ is a Protestant denomination of 5,000 churches and nearly 900,000 members throughout the United States that proclaims the Gospel of Jesus Christ, celebrates diversity, honors the gifts of all people, and seeks justice and peace for everyone.

*Amicus curiae* The Reconstructionist Rabbinical Association ("RRA"), established in 1974, is the professional association of Reconstructionist rabbis. Comprised of over 300 rabbis, the RRA represents the rabbinic voice within the Reconstructionist movement.

*Amicus curiae* The Union for Reform Judaism, whose 900 congregations across North America include 1.5 million Reform Jews, is committed to ensuring equality for all of God's children, regardless of sexual orientation.

*Amicus curiae* Unitarian Universalist Association was founded in 1961 and has nurtured a heritage of providing a strong voice for social justice and liberal religion. Unitarian Universalism is a caring, open-

minded faith community that traces its roots in North America back to the Pilgrims and the Puritans.

*Amicus curiae* Covenant Network of Presbyterians, a broad-based, national group of clergy and lay leaders, seeks to support the mission and unity of the Presbyterian Church (USA), articulate and act on the church's historic, progressive vision, work for a fully inclusive church, and find ways to live out the graciously hospitable gospel by living together with all our fellow members in the Presbyterian Church (USA).

*Amicus curiae* Friends for Lesbian, Gay, Bisexual, Transgender, and Queer Concerns ("FLGBTQC") is a faith community within the Religious Society of Friends. FLGBTQC deeply honors, affirms, and upholds that of God in all people.

*Amicus curiae* Methodist Federation for Social Action mobilizes clergy and laity within The United Methodist Church to take action on issues of peace, poverty and people's rights within the church, the nation, and the world.

*Amicus curiae* More Light Presbyterians represents lesbian, gay, bisexual, and transgender people in the life, ministry, and witness of the Presbyterian Church (USA) and in society.

*Amicus curiae* Muslims for Progressive Values is guided by the following ten principles, each of which is rooted in Islam: collective identity, equality, separation of religious and state authorities, freedom of speech, universal human rights, gender equality, LGBTQ inclusion, critical analysis and interpretation, compassion, and diversity.

*Amicus curiae* The Open and Affirming Coalition of the United Church of Christ represents 1,200

congregations in the UCC with nearly 250,000 members that, after a period of study, dialogue and prayer, have adopted a covenant, of welcome to lesbian, gay, bisexual and transgender Christians. Open and Affirming churches support the relationships of their LGBT members, recognize their marriages, and advocate for their LGBT neighbors when their rights or dignity are under attack.

*Amicus curiae* Reconciling Ministries Network serves lesbian, gay, bisexual, and transgender United Methodists and their allies to transform their world into the full expression of Christ's inclusive love. Reconciling Ministries Network envisions a vibrant Wesleyan movement that is biblically and theologically centered in the full inclusion of God's children.

*Amicus curiae* ReconcilingWorks: Lutherans For Full Participation embodies, inspires, advocates and organizes for the acceptance and full participation of people of all sexual orientations and gender identities within the Lutheran communion, its ecumenical and global partners, and society at large.

*Amicus curiae* Religious Institute, Inc. is a multi-faith organization whose thousands of supporters include clergy and other religious leaders from more than 50 faith traditions. The Religious Institute partners with the leading mainstream and progressive religious institutions in the United States.

*Amicus curiae* Women of Reform Judaism represents more than 40,000 women in nearly 400 women's groups in North America and around the world and comes to this issue rooted in a commitment to speaking and acting forcefully against discrimination.

*Amici curiae* leaders of United States religious communities spanning a rich diversity of American faith traditions include: Imam Daayiee Abdullah, Executive Director of MECCA Institute, Light of Reform Mosque, Muslim – Sunni, Washington, DC; Upasika Cleis Abeni, Director of Engagement, Many Voices, TransBuddhists, Buddhist, Baltimore, MD; Rabbi Joel N Abraham, Rabbi, Temple Sholom of Scotch Plains, Jewish – Reform, Fanwood, NJ; Rabbi Steven Abraham, Rabbi, Beth El Synagogue, Jewish – Conservative, Omaha, NE; The Rev. Michael Adams, Rector, All Saints' Episcopal Church, Episcopal Church, Austin, TX; Reverend Ron Adams, Pastor, Madison Mennonite Church, Mennonite, Fitchburg, WI; Dr. Michael Adee, Director, Global Faith and Justice Project, Presbyterian Church USA, Santa Fe, NM; Rabbi David Adelson, Dean, Hebrew Union College-Jewish Institute of Religion, Jewish – Reform, New York, NY; Rev. Dan Adolphson, Moderator, Disciples LGBTQ+ Alliance, Disciples of Christ, Christian Church, Minneapolis, MN; Rev. Dr. Tim Ahrens, Senior Minister, First Congregational, United Church of Christ, Columbus, OH; Robert Thomas, Episcopal Church, Seward, AK; Rev. Brian Akers, Senior Minister/Spiritual Leader, Centers for Spiritual Living, New Thought, Columbia, MD; Reverend April Alford-Harkey, Reverend Deacon, St Monica's, Episcopal Church, Milford, CT; Rev. Marie Alford-Harkey, President of Religious Institute, Religious Institute, Metropolitan Community Church, Bridgeport, CT; Rev. Charles Alger, Pastor, Waiola United Church of Christ, United Church of Christ, Lahaina, HI; Rev. Dr. Charles Alkula, Pastor, Stevensville United Methodist Church, United Methodist Church, Stevensville, MT; Reverend Carol Allen, Spiritual Director, Presbytery of Chicago,

Presbyterian Church USA, Chicago, IL; Rabbi Katy Allen, Rabbi, Ma'yan Tikvah, Jewish – Other, Wayland, MA; Rev. Tadd Allman-Morton, Pastor, Westhampton Congregational United Church of Christ, United Church of Christ, Montgomery, MA; Rabbi Renni Altman, Associate Dean, HUC-JIR, NY Campus, Jewish – Reform, Great Neck, NY; Rev. Dr. Eileen Altman, Associate Pastor, First Congregational Church of Palo Alto, United Church of Christ, Palo Alto, CA; Rev. Dr. Israel Alvaran, Western Regional Organizer, Reconciling Ministries Network, United Methodist Church, San Francisco, CA; Sister Gloriamarie Amalfitano, All Souls' Episcopal Church, Episcopal Church, San Diego, CA; Pastor Elyse Ambrose, Associate Pastor, Church of the Village (NYC), United Methodist Church, New York, NY; Rev. Dr. David Ames, Retired, Center for Reconciliation, Episcopal Church, Providence, RI; Rev. Craig Amlin, Zion UCC, United Church of Christ, Indianapolis, IN; Rev. Dr. Brian Ammons, Chaplain and Director of Spiritual Life, Warren Wilson College, Alliance of Baptists, Asheville, NC; Rev. Dr. Kharma Amos, Associate Director of Formation and Leadership Development, Metropolitan Community Church, Lewes, DE; Rev. Tyler Amundson, Lead Pastor, Shiloh United Methodist Church, United Methodist Church, Billings, MT; Roshi Susan Myoyu Andersen, Teacher, Great Plains Zen Center, Buddhist, Monroe, WI; Reverend Bobbi Anderson, Retired, Seymour Sevier County, TN; Reverend Allan Anderson, Extension Ministry – Pastoral Psychotherapy, Pathways Counseling Associates, Inc., United Methodist Church, Lowell, MA; Reverend Marty Anderson, Co-Pastor, Commonwealth Baptist Church, Alliance of Baptists, Alexandria, VA; Reverend Cynthia Alice Anderson,

Senior Minister, Christ Church Unity, Unity, Orlando, FL; The Reverend Dr. Linda Anderson, Community Minister, Unitarian Universalist Fellowship at Stony Brook, Unitarian Universalist Association, Stony Brook, NY; Pastor Pj Pamelajune Anderson, Founder, Space for Grace United Church of Christ, United Church of Christ, Holt, MI; The Reverend Susan Anderson-Smith, St. Mark's Church in-the-Bowery, Episcopal Church, New York, NY; The Rt. Rev. Marc Andrus, Bishop of the Episcopal Diocese of California, Episcopal Church, San Francisco, CA; The Reverend Carol Anthony, Vicar, St. Gabriel's Episcopal Church, Episcopal Church, Philadelphia, PA; Reverend Susan Archer, Retired, UU Fellowship of Winston-Salem, Unitarian Universalist Association, Greensboro, NC; Reverend Kevin Arensman, Pastor, Sayre Christian Church, Disciples of Christ, Christian Church, Sayre, PA; Reverend Belle Armstrong, Retired, MCC of Amarillo, Metropolitan Community Church, Amarillo, TX; Rev. Dr. Dale Arnink, Retired, Unitarian Church of Los Alamos, Unitarian Universalist Association, Los Alamos, NM; Ordained United Annie Arnoldy, Pastor of Discipleship, St. Andrew UMC, United Methodist Church, Highlands Ranch, CO; Reverend Donald Ashmall, Council Minister, International Council of Community Churches, Gouldsboro, ME; Reverend David Aslesen, Pastor, First United Methodist Church of Park Ridge, United Methodist Church, Park Ridge, IL; Rev. Aqueelah As-Salaam, Spiritual Director, The Salome Center, United Church of Christ, Atlanta, GA; Reverend Nelma Ruth Atterberry, Retired, Stillwater FUMC, United Methodist Church, Stillwater, OK; The Rev. Deacon Anne Auchincloss, Deacon, Church of the Epiphany, Episcopal Church, New York, NY;

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Reverend Doc Kevin Buchanan, Transitional Pastor, Central Presbyterian Church, Presbyterian Church USA, Terre Haute, IN; Reverend Rosa Buffone, Pastor, Holy Spirit Ecumenical Catholic Community, Catholic, Newton, MA; Consecrated Deacon Richard Buhl, Lutheran – ELCA, Orlando, FL; Rev. Rudolph Bullman, Retired, Roman Catholic, Missoula, MT; Bishop Pat Bumgardner, Executive Director, Global Justice Institute and Senior Pastor, Metropolitan Community Church of New York, Metropolitan Community Church, New York, NY; The Rev. Peter Bunder, Chapel of the Good Shepherd, Episcopal Church, West Lafayette, IN; Rev. Michael Burke, Rector/Sr. Pastor, St. Mary's Episcopal Church, Episcopal Church, Anchorage, AK; Reverend Doctor Andy Burnette, Senior Minister, Valley Unitarian Universalist Congregation, Unitarian Universalist Association, Phoenix, AZ; Pastor Charles Burnett-Morrow, Sr. Pastor/Founder, Grace Oasis (aka – The ONE Church In Christ Jesus), Pentecostal, Dallas, TX; The Rev. Dr. Suzanne Burris, Pastor, Congregational United Church of Christ of Mitchell, United Church of Christ, Mitchell, SD; The Rev. Grace Burson, Associate Transitional Pastor, Holy Trinity Evangelical Lutheran Church, Lutheran – ELCA, Nashua, NH; Senior Pastor Victoria Burson, Pastor/Leadership Coach, Metropolitan Community Church, Middle River, MD; Rabbi Andrew Busch, Rabbi, Baltimore Hebrew Congregation, Jewish – Reform, Baltimore, MD; Rev. Dr. Amy Butler, Senior Minister, The Riverside Church in the City of New York, American Baptist USA, New York, NY; Reverend Jennifer Butler, CEO, Faith in Public Life, Interfaith, Washington, DC; Rev. Elizabeth Buxton, Senior Pastor, United Methodist Church, Charlottesville, VA; Reverend Mark Byrd, Senior Pastor, New

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Church USA, Glen Allen, VA; Reverend Florence Caplow, Minister, Unitarian Universalist Church of Urbana Champaign, Unitarian Universalist Association, Urbana, IL; Reverend Tom Capo, Minister, DuPage Unitarian Universalist Church, Unitarian Universalist Association, Naperville, IL; Rev. Rosemary Captain, Pastor, St. John United Church of Christ, Fairview Heights, United Church of Christ, Lebanon, IL; Reverend Michael Carbone, Pastor, Be The Light, Dover, FL; Rev. Royal Carleton, Chaplain, Inclusive Life Center, Omaha, NE; The Rev. Dr. Katherine Carlson, Rector, All Saints Episcopal Church, Episcopal Church, East Lansing, MI; The Rev. Canon David Lee Carlson, Canon Missioner, The Delaware Catskill Episcopal Ministry, Episcopal Church, Port Jervis, NY; Rev. Dr. Joanne Carlson Brown, Pastor, Tibbetts United Methodist Church, United Methodist Church, Seattle, WA; Rev. Dr. Jan Carlsson-Bull, Minister, Unitarian Universalist Church in Meriden, Unitarian Universalist Association, Middletown, CT; Rev. Dr. Jerry Carpenter, Pastor, Weimar United Church of Christ, United Church of Christ, Weimar, TX; Kathie Carpenter, Chair of Open and Affirming Ministry Teams, Mass Conference UCC and Needham MA UCC, Needham Congregational UCC, United Church of Christ, Roslindale, MA; Reverend (Dr.) Sarah Carpenter, Ordained Minister, Retired, Dennis Union Church, United Church of Christ, South Yarmouth, MA; Rabbi Kenneth Carr, Rabbi, Temple Chayai Shalom, Jewish – Reform, South Easton, MA; The Rev. Diana Carroll, Rector, St. Luke's Episcopal Church, Episcopal Church, Annapolis, MD; Kelly Carson, Hospice Chaplain, Mennonite Fellowship of Bloomington, Mennonite, Bloomington, IN; Rev. Jacalyn Carter, Senior Pastor, Table of Hope MCC,

Metropolitan Community Church, Wichita, KS; Reverend Douglass Cartwright, Pastor, First Christian Church (Disciples of Christ), Albany, OR, Disciples of Christ, Christian Church, Albany, OR; Reverend Melissa Carvill Ziemer, Acting Executive Director, Unitarian Universalist Ministers Association, Unitarian Universalist Association, Easthampton, MA; Rev. Patricia Case, Interim Pastor, Central Christian Church – Lebanon, Disciples of Christ, Christian Church, Lebanon, IN; Rev. Dr. Michael Castle, Senior Pastor, Harmony Creek Church, United Church of Christ, Dayton, OH; Reverend Barbara Cathey, Pastor, Edgewater Presbyterian Church, Presbyterian Church USA, Chicago, IL; The Rev. Christine Caton, Retired, Presbytery of Southern New England, Presbyterian Church USA, Old Lyme, CT; Reverend Dr. Neil Cazares-Thomas, Senior Pastor, Cathedral of Hope United Church of Christ, United Church of Christ, Dallas, TX; Bishop Bud Cederholm, Retired, Episcopal Diocese of Massachusetts, Episcopal Church, Plymouth, MA; Reverand Ryan Chaddick, Church Planter/Mission Developer, Bloom Lutheran Church, Lutheran – ELCA, Valencia, CA; Pastor John Chaplin, Adjunct Minister for LGBTQ Concerns & Community Outreach, Urbandale United Church of Christ, United Church of Christ, Des Moines, IA; Catherine Chapman, Executive Director, Association of Welcoming and Affirming Baptists (AWAB), Louisville, KY; Rev. Mark Charlton, Auxiliary Pastor, Walnut Creek United Methodist Church, United Methodist Church, Antioch, CA; Rev. Leslie Chartier, Chaplain, Unitarian Universalist Fellowship of Corvallis, Unitarian Universalist Association, Albany, OR; Rev. Joseph M Cherry, Parish Minister, Unitarian Universalist Society of Cleveland, Unitarian Universalist Associa-

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canoe County, Unitarian Universalist Association, West Lafayette, IN; Rev. Dr. Lisa Davison, Professor of Hebrew Bible, Phillips Theological Seminary, Disciples of Christ, Christian Church, Tulsa, OK; Rev. Ann Day, Retired Clergy, United Church of Christ, Holden, MA; Jan Lawrence, Executive Director, United Methodist Church, Washington, DC; Rev. Dr. Miguel A. De La Torre, Professor of Social Ethics and Latinx Studies, Southern Baptist, Denver, CO; Francis DeBernardo, Executive Director, New Ways Ministry, Roman Catholic, Mount Rainier, MD; Reverend Kathleen Deegan-Neal, Associate Pastor, Watkinsville First United Methodist Church, United Methodist Church, Athens, GA; Reverend Paula Degree, Retired, United Church of Christ, Dennis Port, MA; The Rev. Charles deKay, Rector, St. Matthew's Episcopal Church, Episcopal Church, Evanston, IL; Rev. Dylan Dell-Haro, Minister, Church of the Brethren, Mennonite, Beatrice, NE; Rabbi Lisa Delson, Rabbi, Peninsula Temple Sholom, Jewish – Reform, Burlingame, CA; Reverend Judith Deutsch, Minister emerita, Westside Congregation, Unitarian Universalist Association, Corrales, NM; Rev. Brother Thomas Devlin, Treasurer, Mercy of God Community, Interfaith, Amarillo, TX; Reverend Ralph DeWitt-Golden, Staff Clergy, New Life MCC, Metropolitan Community Church, New Port Richey, FL; Rabbi Barry Diamond, Beth Haverim Shir Shalom, Jewish – Reform, Dallas, TX; Rev. Dr. Michael Diaz, Associate Pastor, Cathedral of Hope UCC, United Church of Christ, Dallas, TX; Reverend Erin Dickey, Senior Pastor, Riverside Avenue Christian Church, Disciples of Christ, Christian Church, Jacksonville, FL; Deaconess Darlene DiDomineck, Interim Executive Director, Methodist Federation for Social Action, United Methodist

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Association, Burlington, VT; Rev. Dr. James Dwyer, California-Pacific Conference, The United Methodist Church, Claremont, CA; The Rev. Alex Dyer, Priest in Charge, St. Thomas' Parish Episcopal Church, Episcopal Church, Washington, DC; Rev. Charles Eagle, Senior Pastor, Community United Methodist Church, United Methodist Church, Brookville, OH; Rev. Paige Eaves, Senior Pastor, University United Methodist Church, United Methodist Church, Irvine, CA; The Very Reverend M.E. Eccles, Rector, St. Martin's Episcopal Church, Episcopal Church, Mount Prospect, IL; Pastor Terri Echelbarger, Pastor, Many Journeys MCC, Metropolitan Community Church, San Mateo, CA; Rev. Katherine Economou, Senior Minister, Center for Spiritual Living Temecula Valley, New Thought, Fallbrook, CA; Pastor Lyda Eddington, Pastor, La Tijera United Methodist Church, United Methodist Church, Los Angeles, CA; Rev. Rose Edington, Unitarian Universalist Association, Charleston, WV; Rev. Dr. Janet Edwards, Parish Associate, Community House Presbyterian Church, Presbyterian Church USA, Pittsburgh, PA; The Reverend Doc Martin Eldred, Pastor, Joy Lutheran, Lutheran – ELCA, Eagle River, AK; The Rev. Donna Faith Eldredge, Retired, United Church of Christ, Portland, OR; Rev. Dr. John Elford, Senior Pastor, University United Methodist Church, United Methodist Church, Austin, TX; Dcn. Scott Elliott, Deacon, St Gregory's, Episcopal Church, Chicago, IL; Rev. Charles Ellis, Christian Church (Disciples of Christ), Retired, Vinton, VA; Rev. Dr. Marvin Ellison, Williard S. Blass Professor Emeritus of Christian Ethics, Bangor Theological Seminary, Presbyterian Church USA, Portland, ME; Rev. Dr. Dorothy Emerson, Unitarian Universalist Minister, Church of the Larger Fellowship, Unitarian Universalist

Association, Medford, MA; Rev. Dr. David Ensign, Pastor, Clarendon Presbyterian Church, Presbyterian Church USA, Arlington, VA; Rev. Alycia Erickson, Pastor, Pikes Peak Metropolitan Community Church, Metropolitan Community Church, Colorado Springs, CO; Jacob Erickson, Assistant Professor of Theological Ethics, Trinity College Dublin, Minot. ND; Rev. C. Erwin, Minister, Faith Community United Church of Christ- UCC, United Church of Christ, McHenry, IL; Rev. Jorge Espinel, Director Latino Ministry, Church of the Larger Fellowship, Unitarian Universalist Association, Houston, TX; Reverend Cathy Estey, Interfaith Prayer Minister, Trinity Episcopal Church, Episcopal Church, Merrimac, MA; Rabbi Dr. Andrew Ettin, Spiritual Leader, Temple Israel, Jewish Renewal, Pfafftown, NC; Reverend Mary Sue Evers, Senior Pastor, Cedar Hills United Church of Christ, United Church of Christ, Portland, OR; Rev. Leslie Fails, Settled Minister, Unitarian Universalist Fellowship of Fairbanks, Unitarian Universalist Association, Fairbanks, AK; Rev. Sylvia Falconer, Retired, Unitarian Universalist Church of Greeley, Unitarian Universalist Association, Greeley, CO; Rabbi Jeffrey Falick, Rabbi, Birmingham Temple, Jewish – Humanist, Farmington Hills, MI; The Reverend Manuel Faria, Rector, St. Peter's Church, Episcopal Church, Beverly, MA; Reverend Suzanne Fast, Affiliated Community Minister, Unitarian Universalist Church of Fort Myers, Unitarian Universalist Association, Fort Myers, FL; Reverend Barbara Fast, Retired, Unitarian Universalist Association, Palm Springs, CA; Rev. Dr. Kelly K. Faulstich, Pastor, Resurrection Lutheran Church, Lutheran – ELCA, Chicago, IL; Rev. Barnaby Feder, Lead Minister, Champlain Valley Unitarian Universalist Society, Unitarian

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Church in America, Lutheran – ELCA, Nashville, TN; Reverend Shannon Fleck, Director, Oklahoma Conference of Churches, Disciples of Christ, Christian Church, Oklahoma City, OK; Rev. Susan Fleenor, Retired, Presbyterian Church USA, Santa Rosa, CA; The Reverend Dr. Ruth Fletcher, Regional Minister, The Christian Church (Disciples of Christ) in Montana, Disciples of Christ, Christian Church, Great Falls, MT; Bishop Yvette Flunder, Presiding Bishop of The Fellowship of Affirming Ministries, City of Refuge, United Church of Christ, Oakland, CA; Reverend Sarah Flynn, All Souls Ministry, Diocese of New England, The Old Catholic Church, Province of the U.S., Burlington, VT; Reverend Colleen Foley, Senior Pastor, Metropolitan Community Church, Louisville, KY; Rev. Megan Foley, Regional Lead, Unitarian Universalist Association, Silver Spring, MD; Reverend Lara Forbes, Pastor, Faith Lutheran Church, Lutheran – ELCA, Phoenix, AZ; The Reverend Julie Forest, Interim Minister, Unitarian Universalist Church of the Desert, Unitarian Universalist Association, San Diego, CA; Rev. Chris Fortin, Guiding Teacher, DharmaHeart Zen, Buddhist, Sebastopol, CA; Reverend Robert Fortney, Minister and Clinical Counselor, Palo Duro Presbytery of the PC(USA), Presbyterian Church USA, Lubbock, TX; Rev. Melinda Foster, Retired, Fellowship Congregation UCC, United Church of Christ, Owasso, OK; Rev. Dr. Dennis W. Foust, Senior Minister, St. John's Baptist Church, Alliance of Baptists, Charlotte, NC; Reverend Dr. Sidney D. Fowler, Senior Minister, United Church of Christ, Washington, DC; Pastor Robert Franek, Pastor, Faith Lutheran Church, Lutheran – ELCA, Galesburg, IL; Reverend Susan Frederick-Gray, President, Unitarian Universalist Association, Boston, MA; Rev. Amy

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Church, Fort Worth, TX; Rev. Kenneth Walsh, Parish Associate, Community Presbyterian Church, United Church of Christ, Yulee, FL; Rev. Dr. Michelle Walsh, Affiliate Community Minister, United First Parish Church of Quincy, Unitarian Universalist Association, Quincy, MA; Rev. Edward Walsh, Associate Pastor, St Teresa Catholic Community, Catholic, Glendale, AZ; Rev. Laura Walters, Pastor, Presbyterian Church of Lake Travis, Presbyterian Church USA, Austin, TX; Reverend Patricia Walton, Retired, United Church of Christ, Beaumont, CA; Reverend Mark Walz, Minister, Unitarian Universalist Village Church, Unitarian Universalist Association, Hot Springs Village, AR; The Rev. Kit Wang, Chair, Commission on Ministry, Episcopal Church in Maine, Episcopal Church, York, ME; Rev. Dr. Alida Ward, Pastor, Greenfield Hill Congregational Church, United Church of Christ, Fairfield, CT; Reverend Andrew Warner, Senior Pastor, United Church of Christ, Milwaukee, WI; Reverend Margaret Warn-Walker, Senior Pastor, Exodus Metropolitan Community Church, Metropolitan Community Church, Abilene, TX; Rev. Naomi Washington Leapheart, Faith Work Director, The National LGBTQ Task Force, United Church of Christ, Philadelphia, PA; Reverend Suzanne Wasilczuk, Minister, Mesabi Unitarian Universalist Church, Virginia, Unitarian Universalist Association, Duluth, MN; Rev. Durrell Watkins, Senior Minister, Sunshine Cathedral (affiliated with ICCC, MCC, & DSFI), Fort Lauderdale, FL; Rabbi Deborah Waxman, President, Reconstructionist Rabbinical College/Jewish Reconstructionist Communities, Jewish – Reconstructionist, Wyncote, PA; Rev. Dr. Suzanne Webb, Minister, Union Avenue Christian, Disciples of Christ, Christian Church, St. Louis, MO; Elizabeth

Weber, Intern Minister, UU Church of Reading, Unitarian Universalist Association, Reading, PA; Rabbi Elyse Wechterman, Executive Director, Reconstructionist Rabbinical Association, Jewish – Reconstructionist, Wyncote, PA; Rev. Rinsen Weik, Abbot, Buddhist Temple of Toledo, Buddhist, Toledo, OH; Deborah Weiner, Interim Director, Follen Church Unitarian Universalist, Unitarian Universalist Association, Lexington, MA; The Rev. Canon Daniel Weir, Priest Associate, Christ Church, North Conway, Episcopal Church, Intervale, NH; Rabbi Rachel Weiss, Rabbi, Jewish Reconstructionist Congregation, Jewish – Reconstructionist, Evanston, IL; Rev. Paul Werner, Pastor, St. Andrew United Church of Christ, United Church of Christ, Sarasota, FL; Reverend Ron Werner, Jr, Pastor/Organizer, Lutheran – ELCA, Portland, OR; The Rev. Mike Wernick, Rector, Church of the Holy Cross, Episcopal Church, Kentwood, MI; Reverend Kate West, Pastor, First Congregational United Church of Christ, United Church of Christ, Belle Plaine, IA; Rev. Dr. Traci West, Professor of Christian Ethics and African American Studies, Clergy, United Methodist Church, Morris Plains, NJ; Reverend Doctor Diane S. Whalen, Pastor, Holy Wisdom Inclusive Catholic Community, Catholic, Olympia, WA; Rev. Joan White, Retired, Urbandale United Church of Christ, United Church of Christ, Perry, IA; The Reverend Jane White-Hassler, Retired, Episcopal Church, Bangor, ME; Reverend Denny Whiteside, Pastor, Evergreen Christian Church, Disciples of Christ, Christian Church, Evergreen, CO; Rev. Ann Whitney, Rector, St. David's, Episcopal Church, Wasilla, AK; Rev. Dr. Damaris Whittaker, Senior Minister, Fort Washington Collegiate Church, United Church of Christ, New York, NY; Rev. Ashlee Wiest-Laird,

Pastor, First Baptist Church in Jamaica Plain, American Baptist, Boston, MA; Rabbi Dan Wigodsky, Sofer, Jewish – Conservative, White Plains, NY; Reverend Erik Wikstrom, Lead Minister, Thomas Jefferson Memorial Church Unitarian Universalist, Unitarian Universalist Association, Charlottesville, VA; The Rev. Dr. Brian Wilbert, Rector, Christ Church, Episcopal Church, Oberlin, OH; Rev. Dr. Rex Wilkes, Retired, United Methodist Church, Oklahoma City, OK; Reverend Meg Wilkes, Associate Minister, First United Methodist, United Methodist Church, Clover, SC; Reverend Michelle Wilkey, Associate Pastor, David's UCC, United Church of Christ, Liberty Township, OH; Reverend Stephanie Willey, Ordained Minister, Universal Life Church, Saline, MI; Rev. Tom Williams, Peace UCC in Brillion, United Church of Christ, Whitefish Bay, WI; Rev. Sandy Williams, Staff Clergy, Founders MCC, Metropolitan Community Church, Covina, CA; Rev. Wendy Williams, Senior Minister, Jefferson Unitarian Church, Unitarian Universalist Association, Golden, CO; The Rev. Stephen J. Williams, Retired, Episcopal Church, Pittsfield, MA; Reverend Mollie Williams, Associate Priest, Trinity Episcopal Church, Episcopal Church, Indianapolis, IN; Patty Willis, Minister, South Valley Unitarian Universalist Society, Unitarian Universalist Association, Salt Lake City, UT; Rev. Mary Wilson, Pastor, Church of the Savior – UCC, Alliance of Baptist, ABC-USA, United Church of Christ, Cedar Park, TX; Rev. Dr. Nancy Wilson, Senior Pastor, SunCoast Cathedral MCC, Metropolitan Community Church, Bradenton's, FL; Rev. Juli Wilson-Black, Pastor, Fairlington Presbyterian, Presbyterian Church USA, Reston, VA; Reverend Sian Wiltshire, Minister, Orange Coast Unitarian Universalist Church, Unitarian Univer-

salist Association, Costa Mesa, CA; Annetta Winkle, St. Mary's ELCA Lutheran, Lutheran – ELCA, Kenosha, WI; Carol Wise, Executive Director, Brethren Mennonite Council for LGBT Interests, Minneapolis, MN; Sensei Peter Wohl, Soto Zen Buddhist Priest, Guiding Teacher, Treetop Zen Center, Buddhist, Oakland, ME; Sunshine Wolfe, Interim Minister, May Memorial Unitarian Universalist Society, Unitarian Universalist Association, Syracuse, NY; Rabbi Dan Wolpe, Rabbi, Congregations of Shaare Shamayim, Jewish – Conservative, Philadelphia, PA; The Rev. Carolyn Woodall, Deacon, Episcopal Church of St. Anne, Episcopal Church, Stockton, CA; Reverend D John Woodcock, Pastor, Church of the Loving Shepherd, Interfaith, West Chester, PA; Ms. Shirley Wooden, Retired, Presbyterian Church USA, Rockford, IL; Rev. Dr. Dawnne Woodie, Retired, United Methodist Church, Anaconda, MT; Rev. Nathan Woodliff-Stanley, Community Minister, First Unitarian Society of Denver, Unitarian Universalist Association, Denver, CO; Rev. Dr. Robert Woodruff, Pastor, Second Presbyterian, Presbyterian Church USA, Albuquerque, NM; Chaplain Laura Woods, Hospital Chaplain, Integris, United Church of Christ, Edmond, OK; The Rev. Thomas Woodward, Retired, St. Bede's Episcopal Church, Episcopal Church, Santa Fe, NM; Rev. Charlene Wozny, Retired, United Church of Christ, Omaha, NE; The Reverend Dr. Judith Wray, Retired, Central Christian Church (Disciples of Christ), Indianapolis, Disciples of Christ, Christian Church, Indianapolis, IN; Rev. Gregory Wright, Pastor, Plymouth Congregational UCC, United Church of Christ, Louisville, KY; Reverend Gail Wright, Clergy at Large, Memorial Congregational Church, United Church of Christ, Sudbury,

MA; Rev. Kevin Wright, Minister of Education, The Riverside Church in the City of New York, American Baptist Church, New York, NY; The Reverend Mike Wright-Chapman, Spiritual Director, Promise United Church of Christ, United Church of Christ, Arlington, TX; Rev. Emily Wright-Magoon, Minister, Unitarian Universalist Church of Midland, Unitarian Universalist Association, Midland, TX; Rabbi Dr. Shmuly Yanklowitz, President & Dean, Valley Beit Midrash, Jewish – Orthodox, Scottsdale, AZ; Reverend Edwin Yates, Spiritual Director, Michigan Spirituality Center, Interfaith, Flint, MI; Minister Jazmynne Young, Liaison Minister, Unitarian Universalist of Manchester/Concord, Unitarian Universalist Association, Concord, NH; The Rev. Dr. Karen-Marie Yust, Rowe Professor of Christian Education, Union Presbyterian Seminary, United Church of Christ, Richmond, VA; The Rev. John Zamboni, Rector, St. Francis Episcopal Church, Episcopal Church, Dunellen, NJ; Rev. Dr. Susan Zencka, Pastor, Frame Memorial Presbyterian Church, Presbyterian Church USA, Stevens Point, WI; Rabbi Lina Zerbarini, Director of Jewish Life and Learning, Reconstructionist Rabbinical Association, Jewish – Reconstructionist, Lynbrook, NY; Ms Karen E. Ziel, Minister of Faith Formation and Leadership, CT Conference United Church of Christ, United Church of Christ, Lebanon, CT; Rev. Evin Ziemer, UUA Field Staff, Unitarian Universalist Association, Easthampton, MA; Rev. Dr. Paul Ziese, Senior Pastor, Lutheran – ELCA, San Antonio, TX; Reverend Anastassia Zinke, Minister, All Souls Unitarian Church, Unitarian Universalist Association, Indianapolis, IN.